

REMARKS/ARGUMENTS

The claims are 1-2, 7 and 9-31. Claim 1 has been amended to recite that the film layers are produced from a polyolefin, polypropylene, polyamide, polyethylene terephthalate (PET), or polyacrylonitrile, as previously appearing in claims 3-6 and 8 which have been canceled. In addition, claim 7 has been amended to depend on claim 1 and to specify that at least one of the two film layers is produced from polyethylene terephthalate (PET). Reconsideration is expressly requested.

Claims 1-7, 9-14 and 22-30 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Rowe U.S. Patent No. 4,396,665*. Claims 1-3, 8-11, 22, 23 and 27-30 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Stierli U.S. Patent No. 4,442,148*. Claims 1-3, 5-7, 9-11 and 22-27 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Jenkins et al. U.S. Patent No. 5,824,401*. Claims 1-11, 15, 16, 18 and 20-30 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Wiercinski et al. U.S. Patent No. 5,687,517*. The remaining claims were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Wiercinski et al.* in view of *Zickell et al. U.S. Patent No. 4,992,315* (claims 17 and 19) or any of *Rowe, Stierli* and *Wiercinski et al.* in view of *Kalkanoglu U.S. Patent No. 4,757,652* (claim 31).

Essentially, the Examiner's position was that *Rowe, Stierli, Jenkins et al.* and *Wiercinski et al.* disclose the film-bitumen combination recited in the claims as set forth above with respect to claims 1-16, 18 and 20-30. *Zickell et al.* was cited with respect to claims 17 and 19 as teaching that it is old and well known in the art to have an embossed non-slip film being shorter along at least one edge of a film-bitumen combination for the purpose of providing a small portion having slip resistance where one can stand to reduce the risk of falling. *Kalkanoglu* was cited with respect to claim 31 as teaching that it is old and well known in an analogous art to have a release liner with several sections for the purpose of allowing the material to be flopped back so that one side can be stuck and then the other side can be flopped down and stuck.

This rejection is respectfully traversed.

As set forth in claim 1, as amended, Applicant's invention provides a film-bitumen combination with at least three layers, which is particularly useful as a membrane to cover roof areas. At least two film layers are made from different materials, and the film layers are produced from a polyolefin, polypropylene, polyamide, polyethylene terephthalate or polyacrylonitrile.

In this way, Applicant's invention provides a multi-layer plastic film construction which will not delaminate from a

bituminous layer by heat and/or swell of a plastic layer caused from the oily substances of the bituminous layer. The use of at least two different film layers makes it possible to vary the strength and heat stability of the entire material combination widely.

As more specifically recited in claim 12, Applicant's invention provides a film-bitumen combination wherein at least two film layers are laminated to a bituminous layer individually or together and at least one edge of part of said at least two film layers projects beyond the bituminous layer. In this way, it is possible to join several membranes together simply, and leakage in the joint areas eliminated effectively.

As more specifically recited in claims 17 and 19, Applicant's invention provides a film-bitumen combination wherein the at least two film layers are laminated to a bituminous layer and a surface of the side of the combination facing away from the bituminous layer has been treated to have non-slip parties.

In the film-bitumen combination recited in claim 17, the non-slip treatment is carried out by means of a coating which is shorter than the film layers or the bituminous layer at least along one edge of the combination. In this way, adjacent membranes can be sealed together reliably and tightly. In the film-bitumen combination recited in claim 19, the non-slip

treatment is carried out by at least partial embossing of the surface, with the embossing being shorter at least along one edge of the combination. This feature likewise assures that two adjacent membranes can be sealed together flawlessly.

Rowe fails to disclose or suggest a film-bitumen combination with at least three layers wherein at least two of the film layers are made from different materials and the film layers are produced from the plastic materials recited in the claims. Rowe describes a metal film, which covers a bituminous composition and is protected by an additional plastic film layer. There is no disclosure or suggestion of Applicant's film-bitumen combination as recited in amended claim 1.

In addition, with respect to claim 12, it is respectfully submitted that contrary to the Examiner's position, the film layers in Rowe do not extend beyond the bituminous layer at least along one edge. Rather, film layers 2 and 3 are coextensive with the edge of bituminous layer 1, as shown in FIG. 2 of Rowe.

*Stierli* describes a single plastic film layer, which is used to protect a bituminous sheet. Between the plastic film layer and the bituminous sheet a barrier layer is arranged. This arrangement differs also from Applicant's invention as recited in amended claim 1, which uses at least two plastic film layers of different materials.

*Jenkins* describes a double plastic layer construction, which is protected against oily substances of a bituminous layer by a barrier layer. In contrast to Applicant's invention as recited in claim 1 as amended, the two plastic layers in *Jenkins* are not made of different material. Although one layer in *Jenkins* contains light-absorbing carbon black and the other layer contains a light reflective pigment, nevertheless *Jenkins'* films are made of the same material.

*Wiercinski et al.* describes a combination of a multilayer film construction, which is made of two symmetric film combinations of three film layers, which it is respectfully submitted differs completely from Applicant's invention as recited in amended claim 1.

The defects and deficiencies of the primary references to *Rowe*, *Stierli*, *Jenkins* and *Wiercinski et al.* are nowhere remedied by any of the secondary references to *Zickell et al.* or *Kalkanoglu*.

*Zickell et al.* discloses a roofing membrane and method having a reinforcing mat sandwiched between top and bottom layers of a tacky polymer-modified bitumen. Although *Zickell et al.* shows, in FIG. 3, a covering film 28 that does not cover the bituminous layer 14 completely, there is no disclosure or suggestion of the specific combination recited in Applicant's

claims 17 and 19 in which a film-bitumen combination includes at least three layers with at least two film layers being made from different materials and the film layers are produced from a polyolefin, polypropylene, polyamide, polyethylene terephthalate (PET) or polyacrylonitrile. Moreover, there is no disclosure or suggestion in *Zickell et al.* of not covering the bituminous layer completely in combination with extending the film construction over the bituminous layer at least at one edge.

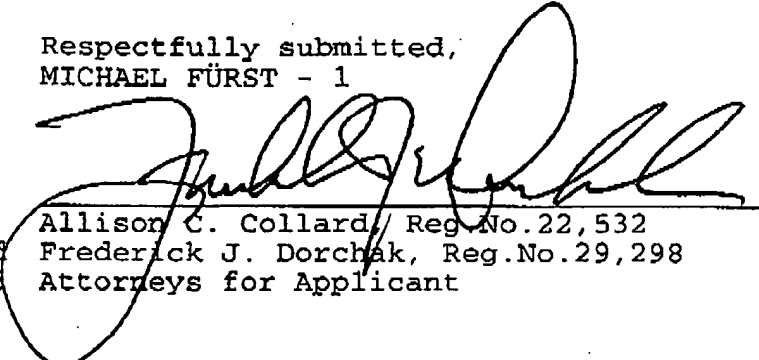
*Kalkanoglu*, which has been cited with respect to claim 31, is even further afield. *Kalkanoglu* discloses a roofing product that has a release film on the back surface thereof which is split to allow the material to be flopped back with one side being stuck and the other side flopped down. However, there is no disclosure or suggestion of Applicant's film-bitumen combination with at least three layers wherein at least two film layers are made from different materials and the film layers are produced from a polyolefin, polypropylene, polyamide, polyethylene terephthalate (PET) or polyacrylonitrile.

Accordingly, it is respectfully submitted that the claims are patentable over the cited references.

In summary, claims 1 and 7 have been amended and claims 3-6 and 8 have been canceled. In view of the foregoing, it is

respectfully requested that the claims be allowed and that this case be passed to issue.

Respectfully submitted,  
MICHAEL FÜRST - 1



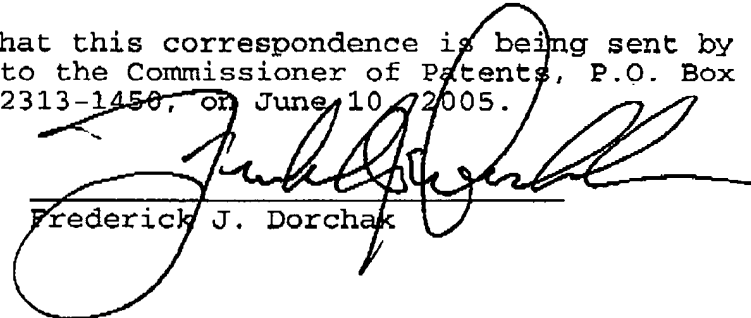
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